



THE CITY OF NEW YORK
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VIA ECF

The Honorable Edgardo Ramos
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

February 21, 2025

MEMO ENDORSED
at page 2

Re: *D.W., et al. v. New York City Department of Education, et al.*, No. 23-cv-3179

Dear Judge Ramos:

I am an Assistant Corporation Counsel in the Office of Muriel Goode-Trufant, Corporation Counsel of the City of New York. This office represents the New York City Department of Education and David C. Banks (in his official capacity) (collectively, “Defendants”) in the above-referenced proceeding.

I write pursuant to Rule 5.2(d) of the Federal Rules of Civil Procedure and Your Honor’s Individual Practices to respectfully request leave to file under seal certain exhibits to the February 21, 2025 Declaration of Eric B. Hiatt, which Defendants intend to submit in support of their Motion to Dismiss. This matter is brought pursuant to the Individuals with Disabilities Education Act (“IDEA”) and involves the educational services provided to minor students. The proposed sealed materials, if filed publicly, would allow the public to determine the identity of the named plaintiffs. This information should not be made public in compliance with Rule 5.2(a). *See* Fed. R. Civ. P. 5.2(a).

Knowledge of the named plaintiffs’ identities would allow the public to learn “personally identifiable information” describing their medical history and disabilities, in addition to their educational records and information detailing their educational progress and history that has been detailed in the pleadings and other filings in this matter. This information is confidential under the IDEA and the Family Educational Rights and Privacy Act (FERPA). 34 C.F.R. § 99.3 (defining personally identifiable information under FERPA), § 300.32 (including a “list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty” as personally identifiable information under IDEA).

Therefore, Defendants respectfully submit that the proposed sealed exhibits are appropriately filed under seal pursuant to *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 120 (2d Cir. 2006) (Countervailing factors weighing in favor of sealing include, inter alia, the privacy interests of those resisting disclosure).

The *Lugosch* standard is met here, as protecting the privacy interests of the minor students by keeping confidential their education and medical history constitutes a “compelling reason” to seal the Hiatt Declaration exhibits. This strong privacy interest outweighs the public's interest in access. *Lugosch*, 435 F.3d at 121. Accordingly, Defendants respectfully request leave to file Hiatt Declaration Exhibits A-C under seal. Defendants have conferred with Plaintiffs concerning this request and Plaintiffs consent to filing these documents under seal.

Thank you in advance for your consideration of this request.

Respectfully submitted,
/s/ Eric B. Hiatt
Eric B. Hiatt
Assistant Corporation Counsel

cc: All counsel of record (VIA ECF)

The motion to submit the exhibits under seal is granted.

SO ORDERED.

A handwritten signature in blue ink, appearing to read 'Edgardo Ramos', is written over a horizontal line.

Edgardo Ramos, U.S.D.J.

Dated: February 24, 2025

New York, New York